

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

SOUTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	
)	
WILLIAM T. OWENS,)	
Defendant)	

RULE 11(f) FACTUAL BASIS FOR GUILTY PLEA

COMES NOW the United States of America through its undersigned counsel, for the purpose of satisfying the requirements of Federal Rule of Criminal Procedure 11(f), submits the following Factual Basis in support of the guilty plea of **WILLIAM T. OWENS**:

1. Defendant **WILLIAM T. OWENS** was employed at HealthSouth Corporation. (“*HealthSouth*”) since 1986 in various capacities, including Chief Financial Officer from February 2000 to August 2001, President and Chief Operating Officer from August 2001 to August 2002, President and Chief Executive Officer from August 2002 to January 2003 and Executive Vice President and Chief Financial Officer from January 2003 until the present. Defendant **OWENS** is licensed as a certified public accountant.

2. *HealthSouth* was formed around 1984. Since in or about 1986, when it made its Initial Public Offering (IPO), *HealthSouth* has been an issuer of a class of securities registered under Section 12 of the Securities Exchange Act of 1934, required to file reports under said Act. *HealthSouth*’s common stock was listed on the New York Stock Exchange. *HealthSouth* claims to be the nation’s largest provider of outpatient surgery, diagnostic imaging and rehabilitative health care services with approximately 1,800 locations in all 50 states, Puerto Rico, the United

Kingdom, Australia, and Canada. Millions of its shares have been traded since it made its first offering.

3. Beginning at least in or about 1996, defendant **OWENS** and *HealthSouth's* current Chief Executive Officer (the "CEO"), other *HealthSouth* senior executives and others recognized that *HealthSouth's* financial results were failing to produce sufficient earnings per share to meet or exceed Wall Street "earning expectations" or "analyst expectations." The difference between *HealthSouth's* true and correct earnings per share and the Wall Street expectations was referred to internally at *HealthSouth* as the "gap" or the "hole." The CEO, defendant **OWENS**, and others recognized that the earnings shortfall created a substantial risk that unless *HealthSouth's* earnings per share were artificially improved, *HealthSouth's* earnings would fail to meet analyst expectations and the market price of *HealthSouth's* securities would therefore decline. The value of stock options owned by, and bonuses paid to certain *HealthSouth* senior officials, including the CEO, depended, in part, on *HealthSouth* meeting earnings projections.

4. The CEO, defendant **OWENS**, and others agreed to engage in an illegal scheme to inflate artificially *HealthSouth's* publicly reported earnings and earnings per share and to falsify reports of *HealthSouth's* financial condition. Defendant **OWENS** presented the CEO with financial information, which would ordinarily be reflected in monthly and quarterly reports that were to be made available to the public through the SEC filings. When those reports showed that the company did not or would not meet market ("Wall Street") expectations, the CEO demanded that the reports be changed to meet or exceed those expectations.

5. The CEO and defendant **OWENS** issued instructions as to the desired earnings per share number and *HealthSouth's* accounting staff met to discuss ways to inflate artificially *HealthSouth's* earnings in order to meet the Wall Street earnings expectations. These meetings were known as "family" meetings and the attendees were known as the "family." At the meetings the "family" members discussed how members of the accounting staff would falsify *HealthSouth's* books to fill the "gap" or "hole" and meet the desired earnings.

6. Defendant **OWENS** and others made and caused to be made false and fraudulent entries in *HealthSouth's* books and records for the purpose of inflating artificially *HealthSouth's* earnings and earnings per share. Methods used for artificially inflating *HealthSouth's* earnings and earnings per share included falsifying the "contractual adjustment" account and decreasing other expenses. After manipulating the "contractual adjustment" and other expense accounts to artificially inflate revenue on the Income Statement, corresponding fraudulent adjustments were made to increase assets and decrease in liabilities on *HealthSouth's* Balance Sheet. Thus, false and fraudulent entries were made to accounts in *HealthSouth's* books and records including, but not limited to, the: (1) Property, Plant and Equipment ("PP&E") account; (2) cash account; (3) inventory account; and (4) intangible asset (goodwill) accounts. Each of these accounts were reported in *HealthSouth's* Balance Sheets. As defendant **OWENS** and his co-conspirators well knew, there was no justification in fact, or under GAAP, for these entries.

7. Defendant **OWENS** became aware that *HealthSouth's* accounting personnel designed the fictitious accounting entries to avoid their detection. For example, if the accounting staff decided to increase inventories, it would increase inventory accounts at various *HealthSouth* facilities by different false amounts because they knew that if amounts were increased uniformly,

suspicious of the auditors might be raised. In addition, since the *HealthSouth* accounting staff knew that auditors questioned additions to the PP&E account that exceeded a certain threshold, the bogus additions to PP&E at a particular facility were kept below the threshold.

8. Defendant **OWENS** and others made and caused to be made false and fraudulent journal entries in *HealthSouth's* books and records knowing and intending (1) that such journal entries would ultimately be reflected in *HealthSouth's* financial statements and public filings with the SEC; (2) that *HealthSouth's* financial statements and public filings would falsely overstate *HealthSouth's* revenue, earnings and earnings per share; and (3) that the investing public would rely upon such overstated earnings.

9. Defendant **OWENS**, the CEO and others caused *HealthSouth* to file publicly with the SEC annual reports and quarterly reports that materially misstated, among other things, *HealthSouth's* net income, revenue, earnings per share, assets, and liabilities from at least 1999 until the present. As a result of the scheme, *HealthSouth's* revenue and earnings were inflated by hundreds of millions of dollars on publicly filed reports. For example, the Balance Sheet included in *HealthSouth's* 10-Q for the second quarter of 2002 overstated gross PP&E by approximately \$1 billion, or approximately 33% of the total PP&E reported. The amount of cash on the same 10-Q was overstated by more than \$300 million and *HealthSouth's* total gross assets were overstated by more than \$1.5 billion.

10. In or about August 2002, in order to cover up and conceal the materially false and misleading financial information which *HealthSouth* had provided to the SEC and the public in the past, the CEO, defendant **OWENS**, and the Chief Financial Officer (the "CFO") at that time, met and discussed the need for the CFO to sign and file with the SEC a statement which would

falsely certify that *HealthSouth's* financial statements fairly presented, in all material respects, the financial condition and results of *HealthSouth*.

11. The CEO, defendant **OWENS**, and the CFO also agreed that the CFO would sign and cause to be filed with the SEC a statement certifying that *HealthSouth's* 10-Q for the second quarter of 2002 fairly presented, in all material respects, the financial condition and results of *HealthSouth*, when in truth and fact, they knew that the 10-Q contained materially false and misleading information.

12. On or about August 14, 2002, defendant **OWENS** wilfully caused to be transmitted by wire from Birmingham, Alabama to the SEC, in Washington, D.C., the 1350 statement certifying that *HealthSouth's* 10-Q for the second quarter of 2002 fairly presented, in all material respects, the financial condition and results, when in truth and fact, he knew that the 10-Q contained materially false and misleading information. This document was signed by the CEO and the CFO who also knew that the periodic report attached to the 1350 statement, *HealthSouth's* second quarter 10-Q, contained materially false information.

13. Defendant **OWENS** wilfully and knowingly caused to be signed and transmitted by wire from Birmingham, Alabama to Washington, D.C. for delivery to the SEC other reports of *HealthSouth's* financial results and financial condition which he knew to contain materially false information or which omitted material information. These included the above- referenced 10-Q for the second quarter of 2002 and *HealthSouth's* 10-Q for the third quarter of 2001 which was filed on or about November 13, 2001.

14. This document does not set forth the complete and full extent of defendant **OWENS'** knowledge about criminal activity at HealthSouth, but is intended only to provide a factual basis for his plea of guilty to an Information filed against him by the government.

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